



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

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Internet: <http://www.fcc.gov>

DA 04-2093
July 13, 2004

ENFORCEMENT BUREAU SEEKS COMMENT ON VERIZON'S REQUEST TO DISCONTINUE AUDIT OF VERIZON'S COMPLIANCE WITH MERGER CONDITIONS

CC DOCKET NO. 98-184

Comments Due: July 27, 2004

Reply Comments Due: August 10, 2004

On April 28, 2004, Verizon Communications, Inc. ("Verizon") submitted a letter requesting that the Commission no longer require it to engage an independent auditor to examine its compliance with the conditions of the *Bell Atlantic/GTE Merger Order*¹ for all periods beginning on or after January 1, 2005.² Condition XXII of the Commission's *Merger Order* requires Verizon to retain an independent auditor on an annual basis to conduct a compliance audit for all merger conditions in effect during the period and to publicly file a report with the Commission.³ Because Verizon's request effectively asks the Commission to eliminate Condition XXII for future periods, we seek comment of interested parties prior to making a determination.

EX PARTE STATUS AND PRESENTATIONS

Because of the policy implications and the potential impact of this proceeding on persons not parties to this request, we find it would be in the public interest to treat this case as a permit-but-disclose

¹ *Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, Memorandum Opinion and Order, 15 FCC Rcd 14032 (2000) ("Merger Order"). The Enforcement Bureau is also seeking comment on a similar request by SBC with respect to the SBC/Ameritech Merger audit requirements in CC Docket No. 98-141. See Public Notice, "Enforcement Bureau Seeks Comment on SBC's Request to Discontinue Audit of SBC's Compliance with Merger Conditions," DA 04-2092 (rel. July 13, 2004).

² See Letter from Jeffrey W. Ward, Senior Vice President, Regulatory Compliance, Verizon, to William H. Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated April 28, 2004 ("Verizon Request") (attached to this Public Notice). Pursuant to the Bureau's request, Verizon supplemented its request with a filing on June 22, 2004, providing additional information regarding the conditions that sunset after December 31, 2004. See Letter from Sara Cole, Associate Director, Federal Regulatory Advocacy, Verizon, to William H. Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated June 22, 2004 (attached to this Public Notice).

³ *Merger Order*, 15 FCC Rcd at 14190-93, ¶¶ 336-342 (Appendix D, 15 FCC Rcd at 14327-28, ¶ 56). See also *Delegation of Additional Authority to the Enforcement Bureau*, 17 FCC Rcd 4795 (2002) (delegating authority to the Enforcement Bureau to carry out merger-related audit and compliance tasks).

proceeding under the Commission's *ex parte* rules.⁴ *Ex parte* presentations that are made with respect to the issues involved in this proceeding will be allowed but must be disclosed in accordance with the requirements of section 1.1206(b) of the Commission's rules.⁵

FILING PROCEDURES

Pursuant to sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before July 27, 2004, and reply comments on or before August 10, 2004.⁶ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number, in this case, CC Docket No. 98-184. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Ernestine Creech, Room 3-A247, Investigations and Hearings Division, Enforcement Bureau, 445 12th Street, S.W., Washington, D.C. 20554. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word or Acrobat Reader. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the docket number, in this case CC Docket No. 98-184), type of pleading (comments and reply comments), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send a diskette copy to the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, or via e-mail at joshir@erols.com. A courtesy copy of all comments should be provided in an IBM compatible format using Word or Acrobat Reader via e-mail to diana.lee@fcc.gov.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

⁴ 47 C.F.R. §§ 1.1200(a), 1.1206.

⁵ 47 C.F.R. § 1.1206(b).

⁶ 47 C.F.R. §§ 1.415, 1.419.

- The filing hours at this location are 8:00 a.m. to 7:00 p.m.
- All hand deliveries must be held together with rubber bands or fasteners.
- Any envelopes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554.
- All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Filings and comments are available for public inspection and copying during regular business hours at the FCC Reference Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, D.C. 20554, (202) 418-0270. They may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, telephone 1(800) 378-3160 or (202) 863-2893, facsimile (202) 863-2898, or via e-mail at joshir@erols.com.

Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with section 1.48 and all other applicable sections of the Commission's rules.⁷ We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

For further information, contact Trent Harkrader, (202) 418-2955, trent.harkrader@fcc.gov, or Diana Lee, (202) 418-0843, diana.lee@fcc.gov, of the Investigations and Hearings Division, Enforcement Bureau.

Action by the Chief, Investigations and Hearings Division, Enforcement Bureau.

⁷ See 47 C.F.R. § 1.49.



Jeffrey Wm. Ward
Senior Vice President
Regulatory Compliance

1515 N. Court House Road
Suite 500
Arlington, VA 22201
Tel: 703 351-3160
Fax: 703 351-3673
jeffrey.w.ward@verizon.com

April 28, 2004

Mr. William H. Davenport
Chief, Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
445 Twelfth Street, SW, Room 3-B433
Washington, DC 20554

RE: *BA/GTE Merger Order*, CC Docket No. 98-184 – Post-Merger Audit Requirements

Dear Mr. Davenport:

Verizon requests that the Commission discontinue requiring Verizon to conduct BA/GTE post-merger audits for all periods beginning on or after January 1, 2005. Most of the merger conditions will have sunset prior to January 1, 2005, and will no longer be subject to audits. Regardless of whether the Commission requires Verizon to conduct additional audits, Verizon will continue to be subject to merger compliance requirements and will report on its compliance on March 15 of each year pursuant to Merger Condition 21. There is, therefore, no reason for the Commission or Verizon to devote resources to any further audits.

Last year, twelve of the BA/GTE merger conditions sunset. These include: (2) Discounted Surrogate Line Sharing Charges; (3) Loop Conditioning Charges and Cost Studies; (7) OSS Assistance to Qualifying CLECs; (8) Collocation, Unbundled Network Elements, and Line Sharing Compliance; (9) Most-Favored-Nation Provisions for Out-of-Region and In-Region Arrangements; (10) Multi-State Interconnection and Resale Agreements; (13) Offering of UNEs; (14) Alternative Dispute Resolution through Mediation; (15) Access to Cabling in Multi-Unit Properties; (16) Out-of-Territory Competitive Entry; (19) Additional Service Quality Reporting; and (20) NRIC Participation. This year, three more of the BA/GTE Merger Conditions will sunset: (1) Separate Affiliate for Advanced Services; (5) Carrier-to-Carrier Performance Plan (Including Performance Measurements); and (18) Enhanced Lifeline Plans. As of the end of the end of 2004, a total of fifteen of the BA/GTE Merger Conditions will have sunset. Thus, the bulk of the audit work in prior years will no longer apply.

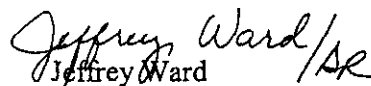
After 2004, only five operative merger conditions will remain in effect.¹ These include: (4) Non-discriminatory Rollout of xDSL Services; (6) Uniform and Enhanced OSS and Advanced Services OSS; (11) Carrier-to-Carrier Promotions: Unbundled Loop Discount; (12) Carrier-to-Carrier Promotions: Resale Discount; and (17) InterLATA Services Pricing. None of the three most recent audits has included any findings of noncompliance with respect to any of these merger conditions. There is no reason to believe that additional audits will disclose any failure by Verizon to satisfy these merger conditions while they remain in effect.

Moreover, most of the remaining operative merger conditions are effectively self-policing. For example, for Merger Condition 4, Verizon will continue to file quarterly reports on the rollout of xDSL services. In addition, most of the other remaining operative merger conditions require specific discounts or pricing terms for competitive local exchange carriers, who could be expected to bring to the Commission's attention any failure by Verizon to continue complying with those requirements.

In any event, the merger compliance control structure, as required by Merger Condition 21, will continue to be in place through sunset of the last merger condition. Under the merger compliance control structure, Verizon will file merger compliance reports on March 15 of each year, describing Verizon's compliance with the remaining merger conditions. The merger compliance reports are "prepared in a format substantially similar, in relevant respects, to the format of the independent auditor's section of the audit report" described in Merger Condition 22. *See* Merger Condition 21, ¶ 55c. These reports will allow the Commission and others to confirm Verizon's compliance with the merger conditions, without expending the resources necessary for audits. Verizon expects that merger condition audits for the years 2005 and beyond would cost at least one million dollars, above and beyond the time and resources that would be expended by Verizon and Commission personnel to support and review the audits. The burdens of continued audits clearly outweigh any possible benefits.

For these reasons, Verizon requests that the Commission permit Verizon to discontinue conducting BA/GTE post-merger audits for all periods beginning on or after January 1, 2005.

Sincerely,


Jeffrey Ward

cc: Hugh Boyle
Pete Young

¹ Five other merger conditions will remain in effect, but they relate only to compliance with and enforcement of the merger conditions: (21) Compliance Program; (22) Independent Auditor; (23) Enforcement; (24) Sunset; and (25) Effect of Conditions. These conditions will sunset when the last merger condition sunsets.

Sara Cole
Associate Director
Federal Regulatory Advocacy



1300 I Street, NW, Suite 400 West
Washington, DC 20005

Phone 202 515-2538
Fax 202 336-7922
margaret.s.cole@verizon.com

June 22, 2004

Mr. William H. Davenport
Chief, Investigations and Hearings Division
Enforcement Bureau
Federal Communications Commission
455 12th Street, S.W.
Washington, DC 20554

Re: BA/GTE Merger Order, CC Docket No. 98-184 – Post-Merger Audit Requirements

Dear Mr. Davenport:

As requested by your staff in response to Mr. Ward's April 28 letter requesting to discontinue post-merger audits, attached please find information regarding the sunset of merger conditions (6) Uniform and Enhanced OSS and Advanced Services OSS, (11) Carrier-to-Carrier Promotions: Unbundled Loop Discount, and (12) Carrier-to-Carrier Promotions: Resale Discount.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sara Cole".

Sara Cole

Enclosure

cc: Hugh Boyle
Pete Young
Diana Lee

**Merger Condition 6
Sunset Dates**

Condition Requirement	Implementation Date	Sunset Date
EBI - offer	6/30/2000	12/31/2002
Electronic Jep Notification - East	10/15/2000	10/15/2003
Line Loss Rpt - EDI - East	10/15/2000	10/15/2003
UNE NIDS - East	10/15/2000	10/15/2003
IDSL - East	10/22/2000	10/22/2003
CSR Parsed via EDI - West	12/4/2000	12/4/2003
CSR Parsed via CORBA - West	12/4/2000	12/4/2003
CSR Parsed via WebGUI - West	12/4/2000	12/4/2003
Loop Qual xDSL via CORBA - West	12/4/2000	12/4/2003
Loop Qual xDSL via EDI - West	12/4/2000	12/4/2003
Uniform Sys Hrs - Svc Order Inquiry & LSR	3/17/2001	3/17/2004
Uniform E911 - DC, VA, WV	3/13/2001	3/31/2004
Uniform EMI for DUF - East	4/21/2001	4/21/2004
Uniform Sys Hrs - Install status inquiry, M&R and ISDN Loop Qual	4/21/2001	4/21/2004
Change Mgmt Process	7/2/2001	7/2/2004
Premise Access hours for M&R - West	8/12/2001	8/12/2004
Uniform LIDB - East	8/19/2001	8/19/2004
Uniform E911- MD	9/22/2001	9/22/2004
Transport & Security	9/28/2001	9/28/2004
Uniform Sys Hrs - Product & Svc availability, Due date availability, CSR unparsed, CSR parsed	12/16/2001	12/16/2004
IDSL - West	2/26/2002	2/26/2005
Plan of Record (all items)	10/15/2000	12/22/2005
Uniform Billing Acct. Structure - East	12/22/2002	12/22/2005
BOS BDT - East	12/22/2002	12/22/2005
PAVA - VA conversion	5/19/2002	5/19/2005
PAVA - PA conversion (estimated date)	7/19/2004	7/19/2007

**VERIZON MERGER DISCOUNT SUNSET DATES
CONDITION 11**

STATE	WINDOW CLOSURE TRIGGER DATE¹	SUNSET DATE²
VZ- West States		
Alabama	OOB – 11/1/01	12/1/04
California	OOB – 11/1/01	12/1/04
Florida	OOB – 11/1/01	12/1/04
Hawaii	OOB – 11/1/01	12/1/04
Idaho	OOB – 11/1/01	12/1/04
Illinois	OOB – 11/1/01	12/1/04
Indiana	OOB – 11/1/01	12/1/04
Kentucky	OOB – 11/1/01	12/1/04
Michigan	OOB – 11/1/01	12/1/04
Missouri	OOB – 11/1/01	12/1/04
Nevada	OOB – 11/1/01	12/1/04
North Carolina	OOB – 11/1/01	12/1/04
Ohio	OOB – 11/1/01	12/1/04
Oregon	OOB – 11/1/01	12/1/04
Pennsylvania	OOB – 11/1/01	12/1/04
South Carolina	OOB – 11/1/01	12/1/04
Texas	OOB – 11/1/01	12/1/04
Virginia	OOB – 11/1/01	12/1/04
Washington	OOB – 11/1/01	12/1/04
Wisconsin	OOB – 11/1/01	12/1/04
VZ-East States		
Connecticut	271 – 7/20/01	8/20/04
Delaware	OOB – 11/1/01	12/1/04
District of Columbia	OOB – 11/1/01	12/1/04
Maine	OOB – 11/1/01	12/1/04
Maryland	OOB – 11/1/01	12/1/04
Massachusetts	271 – 4/16/01	5/16/04
New Hampshire	OOB – 11/1/01	12/1/04
New Jersey	OOB – 11/1/01	12/1/04
New York	271 – pre merger	N/A
Pennsylvania	271 – 9/19/01	10/19/04
Rhode Island	OOB – 11/1/01	12/1/04
Vermont	OOB – 11/1/01	12/1/04
Virginia	OOB – 11/1/01	12/1/04
West Virginia	OOB – 11/1/01	12/1/04

¹ For states in which offering window was closed due to OOB spending, the trigger date is upon the last dates of expenditures, October 31, 2001, and the FCC's order released June 24, 2002, ordering paragraph 3, which states that Verizon satisfied the OOB expenditures in November 2001. For states in which the offering window was closed due to 271 approval, the trigger date was the 271 order effective date.

² Per Merger Condition paragraph 35b, orders placed before offering window closure with installed dates within 30 days of window closure receive the discount. Sunset date is 30 days after the window closure trigger date.

VERIZON MERGER DISCOUNT SUNSET DATES

CONDITION 12

STATE	CLEC NOTICE DATE	FCC NOTICE DATE	PUC NOTICE DATE	MONTH 100% LINES MET	SUNSET DATE ³
VZ- West States					
Alabama	4/18/01	5/1/01	5/1/01	4/17/01	5/17/04
California					8/30/06
Florida	8/7/02	8/5/02	8/5/02	6/30/02	7/30/05
Hawaii					8/30/06
Idaho					8/30/06
Illinois					8/30/06
Indiana	3/12/03	3/7/03	3/10/03	1/31/03	3/02/06
Kentucky	3/7/02	3/12/02	3/13/02	12/31/01	1/30/05
Michigan					8/30/06
Missouri					8/30/06
Nevada					8/30/06
North Carolina	8/7/02	8/5/02	8/1/02	6/30/02	7/30/05
Ohio					8/30/06
Oregon					8/30/06
Pennsylvania					8/30/06
South Carolina	5/8/01	5/14/01	5/11/01	4/1/01	5/30/04
Texas	4/3/02	4/2/02	4/3/02	2/28/02	3/30/05
Virginia					8/30/06
Washington					8/30/06
Wisconsin					8/30/06
VZ-East States					
Connecticut					8/30/06
Delaware					8/30/06
District of Columbia	8/2/02	8/5/02	8/8/02		5/30/05
Maine					8/30/06
Maryland	12/23/02 & 3/7/03	1/7/03 & 3/5/03	1/7/03 & 3/6/03	11/30/02	12/30/05
Massachusetts					8/30/06
New Hampshire					8/30/06
New Jersey					8/30/06
New York					8/30/06
Pennsylvania					8/30/06
Rhode Island					8/30/06
Vermont					8/30/06
Virginia					8/30/06
West Virginia					8/30/06

³ Per Merger Condition paragraph 37a, resold services placed in service less than 30 days after the end of the Offering Window, shall be eligible for a promotional resale discount. Sunset date is 30 days after the threshold was met. For those states not meeting the maximum number of lines, the offering window closes on 7/30/03.